

111 Market Place, Suite 500
Baltimore, Maryland 21202-7110
410 468-3500
410 468-3499 Fax



Constellation **Power Source**

*A Member of the
Constellation Energy Group*

August 8, 2002

BY ELECTRONIC FILING

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: D.T.E. 02-40

Dear Ms. Cottrell:

Please accept for filing the following Comments of Constellation Power Source, Inc. in the above-referenced proceeding.

Thank you for your assistance.

Respectfully submitted,

Lisa M. Decker, Counsel

Investigation by the Department of Telecommunications and Energy on its Own Motion into the Provision of Default Service

who are in more expensive load zones. Bidders providing Default Service will not have to assume in making their bids that the high cost customers will remain on Default Service while the low cost customers will migrate. This enables the bidder to make a lower overall bid for default service and gives all customers equal access to the competitive market.

The second alternative is to set default rates uniformly for all customers within the same rate class and behind the same distribution utility. This has the advantage of simplicity from a customer perspective but is less economically efficient.

A Retail Model

The Department has indicated that it will consider whether distribution companies should serve as the default service suppliers of last resort or whether this function can and should be provided by other entities. Competitive suppliers selling at wholesale to a distribution utility enjoy a sanctity of contract under both State and Federal law which protects the integrity and enforceability of their agreements. Similar protections must be provided under any retail model considered by the Commission. Moreover, a retail model introduces additional risk and complexity. For instance, the issues of bad debt, credit risk and contract privity must all be dealt with if a retail model is pursued. Providers under a retail model will also require a high measure of regulatory certainty. These competitive suppliers need reliable assurance that their rates and service conditions will not be altered by the Department once their bid is accepted. Given these complexities, we do not see any genuine public policy benefit in pursuing this avenue which can not more easily be achieved under the wholesale default service model.

Retail Adders

Retail adders are a controversial subject. Adders can and have been used to “kick-start” retail competition where there is a desire to encourage customer migration to the retail market. From a default supplier perspective, however, retail adders have an upward effect on price which increases uncertainty associated with customer attrition. This is a potentially negative incentive to participate in the procurement solicitation. That is, retail adders may encourage customers to leave Default Service more rapidly than they would otherwise move in response to market price fluctuations. This increased customer attrition risk increases the uncertainty for the default supplier who must be prepared in any event to supply customers who may or may not be there. The increased uncertainty reduces the value of the transaction for the default supplier. The cost of managing this greater uncertainty will likely result in a higher price for default service.

Whether the imposition of a retail adder is warranted is a public policy measure on which we defer to the Department. In making its assessment, however, we urge the Department to consider the significant progress in retail switching which has occurred to date, as described in the Department’s Notice. Whether a kick-start remedy is needed should be evaluated in light of the retail market success to date.

Other Alternatives

Other options which exist include the direct assignment of retail customers to qualified suppliers, the elimination of default service altogether or the return to vertically integrated supply with cost-of-service regulation. We view all of these as highly controversial measures in a state which has already held a referendum on retail access while also adhering to some of the most stringent standards for consumer protection. Neither complete deregulation nor complete re-regulation seems to us to be consistent with this history and experience.

Conclusion

We believe Massachusetts has already made great strides in the transition to retail competition. In moving forward we respectfully recommend the continuation of default service along a wholesale model, as is done currently. In this respect we commend to the Department the NSTAR presentation which was submitted to the Department on July 23, 2002 in support of the current approach. We suggest the Department also consider differing approaches to different classes of customers and that it approach the issue of retail adders with caution and with a full understanding of the consequences. Finally, we urge the Department to eschew either a return to complete regulation or the complete abandonment of any form of Default Service.

Respectfully submitted,

Lisa M. Decker, Counsel
Constellation Power Source, Inc.
111 Market Place, Suite 500
Baltimore, Maryland 21202
Phone: (410) 468-3792
Fax: (410) 468-3499